

**CITY COUNCIL OF MONTEREY PARK
AND THE CITY COUNCIL ACTING ON BEHALF OF THE SUCCESSOR AGENCY
OF THE FORMER REDEVELOPMENT AGENCY**

SUPPLEMENTAL INFORMATION

**REGULAR MEETING
Monterey Park City Hall Council Chambers
320 W. Newmark Avenue, Monterey Park, CA 91754**

**Wednesday
July 18, 2018
7:00 p.m.**

5-C. BALLOT PROPOSITION TO IMPOSE A ¾ CENT SALES TAX TO FUND CITYWIDE CAPITAL IMPROVEMENT PROJECTS, SAFETY EQUIPMENT FOR EMERGENCY SERVICES, LIBRARY COLLECTIONS AND PUBLIC ACCESS COMPUTERS

It is recommended that the City Council consider:

- (1) Adopt a resolution placing a proposition on the November 6, 2018 ballot which, if adopted by 2/3 of voters, would impose a special sales tax;
- (2) Determine whether to designate person(s) for filing an argument favoring the ballot proposition;
- (3) Adopt a resolution requesting that the City Attorney prepare an impartial analysis for the ballot measure; and
- (4) Take such additional, related, action that may be desirable.

CEQA (California Environmental Quality Act):

This action is exempt from review under the California Environmental Quality Act (California Public Resources Code §§ 2100, *et seq.*, "CEQA") and CEQA regulations (14 California Code of Regulations §§ 15000, *et seq.*) because it establishes rules and procedures to implement government funding mechanisms; does not involve any commitment to a specific project which could result in a potentially significant physical impact on the environment; and constitutes an organizational or administrative activity that will not result in direct or indirect physical changes in the environment. Accordingly, this Proposition does not constitute a "project" that requires environmental review (see specifically 14 CCR § 15378(b)(4-5)).

For staff report placement page: Agenda Item No. 5C - BALLOT PROPOSITION TO IMPOSE A ¾ CENT SALES TAX TO FUND CITYWIDE CAPITAL IMPROVEMENT PROJECTS, SAFETY EQUIPMENT FOR EMERGENCY SERVICES, LIBRARY COLLECTIONS AND PUBLIC ACCESS COMPUTERS



City Council Staff Report

DATE: July 18, 2018

AGENDA ITEM NO: Old Business
Agenda Item 5-C.

TO: The Honorable Mayor and City Council
FROM: Annie Yaung, CPFO, Director of Management Services
SUBJECT: Ballot Proposition to impose a $\frac{3}{4}$ cent sales tax to fund citywide capital improvement projects, safety equipment for emergency services, library collections and public access computers

RECOMMENDATION:

It is recommended that the City Council consider the following:

1. Adopt a resolution placing a proposition on the November 6, 2018 ballot which, if adopted by 2/3 of voters, would impose a special sales tax;
2. Determine whether to designate person(s) for filing an argument favoring the ballot proposition;
3. Adopt a resolution requesting that the City Attorney prepare an impartial analysis for the ballot measure; and
4. Take such additional, related action that may be desirable.

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This action is exempt from review under the California Environmental Quality Act (California Public Resources Code §§ 2100, *et seq.*, "CEQA") and CEQA regulations (14 California Code of Regulations §§ 15000, *et seq.*) because it establishes rules and procedures to implement government funding mechanisms; does not involve any commitment to a specific project which could result in a potentially significant physical impact on the environment; and constitutes an organizational or administrative activity that will not result in direct or indirect physical changes in the environment. Accordingly, this Proposition does not constitute a "project" that requires environmental review (see specifically 14 CCR § 15378(b)(4-5)).

EXECUTIVE SUMMARY:

During the June 20, 2018 meeting, the City Council directed staff to return with proposed language for a special sales tax ballot proposition. Specifically, this item was brought by Council Member Real Sebastian during the FY 18-19 budget hearing. She is asking the City Council to consider placing a ballot measure in the November election that would ask voters to consider a sales tax that would be in place for 10 years and that the revenues would be used to fund specific public infrastructure and services within the City of Monterey Park as identified in the "Capital Improvement Program Estimations" (attachment 1). The funds could be used for goods and materials and that none of the funds could be used to pay for

fees for consultants, professional or non-professional services, or City employee wages, benefits or pensions costs.

The Bradley-Burns Uniform Sales and Use Tax Law provides for our City of 1% to support the City's general funds. In many jurisdictions, additional sales and use taxes have been authorized. If this special sales tax ballot is approved by 2/3 of the voters, according to staff, the draft ballot proposition would generate approximately \$4,000,000 in annual revenue to support our City's capital improvements.

BACKGROUND:

Each year, the City allocates scarce resources among various programs, services, and capital improvements. Over time, decreases in federal and state financial assistance, expanding local government responsibilities, and significant increases in employee pension costs have contributed to deferment of key capital improvement projects. For the last few years, the City has used its General Fund Reserve to fund citywide priority capital projects.

California sales taxes are comprised of three different components: (a) a state tax; (b) a county tax; and (c) a tax that may be imposed by a "district." A "district" includes cities, counties, and other public entities. Currently, the combined state and county sales tax equals 7.25%, plus the transaction and use tax districts' 2.25% (such as Transit Districts), make a total of 9.5% for the City rate. The maximum rate for all sales taxes cannot exceed 10.25%.

Each district may adopt its own sales tax up to the maximum tax rate. Some districts have regional taxing powers. Counties, for example, can impose taxes both within unincorporated areas and within cities. If, however, a city already collects sales taxes up to the maximum rate (10.25%), then the regional tax cannot be collected within that city. For example, Long Beach and Santa Monica presently have a sales tax of 10.25%.

On June 20th, the City Council briefly discussed increasing the sales tax rate within Monterey Park. California law refers to this type of tax as a "Transaction and Use Tax." There are currently over 260 California public entities which impose this tax and use the revenue to support project needs. Since the contemplated tax revenue is for specific purposes – and because November 2018 is not a regular municipal election – this tax requires a two-thirds vote for approval.

Monterey Park's existing sales tax is 9.5%. The legal cap on sales tax is 10.25%; this gives the voters the ability to increase the sales tax by 0.75% and still remain at the legal cap. Council Member Real Sebastian is concerned that if the City does not impose this sales tax to capture the \$4,000,000 (0.75% tax), another entity will impose a tax and take the \$4,000,000 revenues.

Council Member Real Sebastian sees this is an opportunity for the Council to pose the question to the City voters to determine if a \$4,000,000 sales tax collected within the City should be used to improve the city or give the \$4,000,000 to an outside entity. For example, in March, Los Angeles County voters approved Measure H which imposes an additional 0.25% tax throughout the County to fund programs for the homeless. Those cities in Los Angeles County that had a 10.25% sales tax limit did not have to pay a Measure H sales

tax. Those cities, however, with sales tax below the 10.25% cap (such as Monterey Park) are having sales tax collected from their cities for Measure H, and may also be denied additional tax revenue should LA County continue increasing the sales tax rate to the 10.25% cap. The question for the voters is, "Do we keep the \$4,000,000 now and use it for Monterey Park for the next 10 years or do we leave it there for the taking by an outside entity?"

As drafted, the proposition would limit the expenditure of new sales tax revenue to the types of public projects that are identified in Attachment 1. Using the tax revenue for any other purpose, including costs for consultants, professional or non-professional services, or wages, benefits or pensions incurred by the City for its workforce, would be prohibited.

This is a 10-year sales tax, which would expire in 2028. The tax would be paid by everyone purchasing taxable goods within the City's jurisdiction (with some limitations). City residents – by state law – are required to pay the sales tax on automobiles, vessels (boats), and aircraft even if the site of sale is outside the City.

If the City Council wishes to place the matter on the ballot, it should adopt the draft resolution for that purpose. The City Council may, but is not required to, adopt a resolution for a City Attorney impartial analysis.

Finally, the City Council can also authorize the City Council – as a whole – or individual Councilmembers to draft a ballot argument in favor of the ballot measure. Ballot arguments would be submitted in accordance with the resolution already adopted as part of calling the November 6, 2018 special municipal election.

FISCAL IMPACT:

The ballot proposition would adopt a special tax, meaning that 2/3 of voters must approve the tax. If adopted, the proposition would generate approximately \$4 million annually.

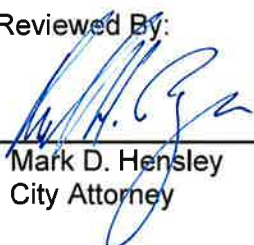
Respectfully submitted and prepared by:

Approved By:


Annie Young, CPFO
Director of Management Services


Ron Bow
City Manager

Reviewed By:


for Mark D. Hensley
City Attorney

ATTACHMENTS:

1. Capital Improvement Program Estimations (dated July 10, 2018)
2. Draft Ballot Proposition
3. Draft Resolution placing proposition on the November 6, 2018 ballot
4. Draft Resolution requesting an impartial analysis

ATTACHMENT 1

Capital Improvement Program Estimations (dated July 10, 2018)

**CITY OF MONTEREY PARK
CAPITAL IMPROVEMENT PROGRAM ESTIMATIONS
FOR A PERIOD OF 10 YEARS**

PROJECT DESCRIPTION	EST TOTAL		Fiscal Year (in thousands)									
	PROJECT COST		Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10
• Alley Reconstruction	\$ 2,000,000	(1)	\$ 157	\$ 165	\$ 174	\$ 183	\$ 193	\$ 203	\$ 214	\$ 225	\$ 237	\$ 249
• Street Resurfacing/Rehabilitation	17,000,000	(1)	1,352	1,420	1,491	1,566	1,645	1,728	1,815	1,906	2,002	2,075
• Sidewalk Reconstruction for Americans with Disabilities Act Compliant	1,500,000	(1)	118	124	131	138	145	153	161	170	179	181
• Traffic Signal Upgrades to Alleviate Congestion and Improve Flow	3,000,000	(2)	238	250	263	277	291	306	322	339	356	358
• Citywide Street Lighting, Parkway and Median Maintenance	8,000,000	(3)	638	670	704	740	777	816	857	900	945	953
• Safety Equipment to Enhance Emergency Services	2,600,000	(4)	206	217	228	240	252	265	279	293	308	312
• Library Collections, Database, and Replacement of Public Access Computers	500,000	(5)	38	40	42	45	48	51	54	57	60	65
• Thirteen (13) Citywide Parks Rehabilitations:		(6)										
• Restroom Improvement for American with Disabilities Act	900,000		70	74	78	82	87	92	97	102	108	110
• Restroom Plumbing/Fixtures /Electrical Rehabilitation	650,000		50	53	56	59	62	66	70	74	78	82
• Park Playground Equipment with ADA Compliant	2,600,000		206	217	228	240	252	265	279	293	308	312
• Irrigation System Improvement	3,250,000		257	270	284	299	314	330	347	365	384	400
• Park Parking Lot Reconstruction	1,300,000		101	107	113	119	125	132	139	146	154	164
• Pavilion and Picnic Shelter Rehabilitation	1,300,000		101	107	113	119	125	132	139	146	154	164
TOTAL 10-YEAR ESTIMATIONS	\$ 44,600,000		\$ 3,532	\$ 3,714	\$ 3,905	\$ 4,107	\$ 4,316	\$ 4,539	\$ 4,773	\$ 5,016	\$ 5,273	\$ 5,425

Notes:

(1) Projects are based on the Pavement Management Program Report

(2) City has 60 traffic signals. Each upgrade will cost approximately \$100,000 to \$200,000, depending on locations

(3) To fund the citywide Lighting and Landscaping District which currently is supplemented by General Fund

(4) Fire: Cardiac Defibrillator (\$40,000 each); EKG Monitor (\$40,000 each); Police: Bullet-Proof Vest and Pistol Replacement; Fire/Police Communication System

(5) Library electronic and non-electronic collections and computers

(6) Projects are based on the Park Master Plan

(7) For any unused tax proceeds will be saved in the General Fund Reserve for future projects

ATTACHMENT 2
Draft Ballot Proposition

ORDINANCE NO. xx

PROPOSITION AUTHORIZING IMPOSITION OF A SPECIAL THREE-QUARTER CENT TRANSACTIONS AND USE TAX (SALES TAX) TO FUND PUBLIC INFRASTRUCTURE AND INFORMATION TECHNOLOGY PROJECTS TO BE ADMINISTERED BY THE STATE BOARD OF EQUALIZATION.

The people of the city of Monterey Park do ordain as follows:

SECTION 1: A new Chapter 3.30 is added to Title 3 of the Monterey Park Municipal Code ("MPMC") to read as follows:

"Chapter 3.30. TRANSACTIONS AND USE TAX

3.30.010. **TITLE.** This Chapter is entitled the "Monterey Park Transactions and Use Tax." The term "City," as used within this Chapter, is the city of Monterey Park. This Chapter is applicable in the incorporated territory of the City.

3.30.020. **VOTER APPROVAL REQUIRED.** This Chapter 3.30 of the Monterey Park Municipal Code must be approved by voters in accordance with applicable law.

3.30.030. **OPERATIVE DATE.** "Operative Date" means the first day of the first calendar quarter commencing more than 110 days after the adoption of this Chapter, the date of such adoption being as set forth below.

3.30.040. **PURPOSE.** This Chapter is adopted to achieve the following, among other purposes, and directs that its provisions be interpreted in order to accomplish those purposes:

- A. To impose a retail transactions and use tax in accordance with the provisions of Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code and Section 7285.9 of Part 1.7 of Division 2 of the Revenue and Taxation Code which authorizes the City to adopt this Chapter which becomes operative if two-thirds of the electors voting on the ballot measure approving the Chapter vote to approve the imposition of the tax at an election called for that purpose.
- B. To adopt retail transactions and use tax regulations that incorporates provisions identical to those of the Sales and Use Tax Law of the State of California insofar as those provisions are not inconsistent with the requirements and limitations contained in Part 1.6 of Division 2 of the Revenue and Taxation Code.

- C. To adopt retail transactions and use tax regulations that imposes a tax and provides a measure therefore that can be administered and collected by the State Board of Equalization in a manner that adapts itself as fully as practicable to, and requires the least possible deviation from, the existing statutory and administrative procedures followed by the State Board of Equalization in administering and collecting the California State Sales and Use Taxes.
- D. To adopt a retail transactions and use tax ordinance that can be administered in a manner that will be, to the greatest degree possible, consistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, minimize the cost of collecting the transactions and use taxes, and at the same time, minimize the burden of record keeping upon persons subject to taxation under the provisions of this ordinance.

3.30.050. TRANSACTIONS TAX RATE. For the privilege of selling tangible personal property at retail, a transaction tax is hereby imposed upon all retailers in the incorporated territory of the City at the rate of 0.75% of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in said territory on and after the operative date of this ordinance.

3.30.060. DESIGNATED EXPENDITURES.

- A. The Monterey Park Transactions and Use Tax is imposed to provide funds for the City to pay only for the materials and contractor equipment costs identified on Exhibit A (collectively, "Public Infrastructure and Information Technology Projects"):
- B. The City Council may provide for collection of the special tax in the same manner and subject to the same penalties as, or with, other charges and taxes fixed and collected by the City, or by the County of Los Angeles on behalf of the City. If the special tax is collected by the County on behalf of the City, the County may deduct its reasonable costs incurred in such service.
- C. The City's cost of enforcing and administering this chapter, including refunds, can be paid from the special tax revenue.
- D. The special tax revenue can only be spent for the purposes in this section. Expending the special tax revenue for any other purpose including, without limitation, professional, consulting or non-professional services; Public Works contractor's or subcontractor's labor costs; and/or City employee wages, benefits, or pensions, is prohibited.

3.30.070. MONTEREY PARK TRANSACTIONS AND USE TAX SPECIAL FUND.

- A. A special fund is established designated the "Monterey Park Transactions and Use Tax." Revenue collected pursuant to this chapter must be deposited into the special fund and be used exclusively as provided in this chapter for the purposes of which the tax is imposed, and for no other purposes.
- B. Any money raised by the special tax, including any interest accrued thereon, that remains unencumbered at the end of any fiscal year may be used in succeeding fiscal years for only the purposes stated in this chapter.

3.30.080. **CONTRACT WITH STATE.** Before the operative date, the City must contract with the State Board of Equalization to perform all functions incident to the administration and operation of this Chapter; provided, that if the City has not contracted with the State Board of Equalization before the operative date, it must nevertheless so contract and in such a case the operative date is the first day of the first calendar quarter following the execution of such a contract.

3.30.090. **PLACE OF SALE.** For the purposes of this Chapter, all retail sales are consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination. The gross receipts from such sales include delivery charges, when such charges are subject to the state sales and use tax, regardless of the place to which delivery is made. In the event a retailer has no permanent place of business in the State or has more than one place of business, the place or places at which the retail sales are consummated is determined under rules and regulations to be prescribed and adopted by the State Board of Equalization.

3.30.100. **USE TAX RATE.** A use tax is imposed on the storage, use or other consumption in the City of tangible personal property purchased from any retailer on and after the operative date of this ordinance for storage, use or other consumption in said territory at the rate of 0.75% of the sales price of the property. The sales price includes delivery charges when such charges are subject to state sales or use tax regardless of the place to which delivery is made.

3.30.110. **ADOPTION OF PROVISIONS OF STATE LAW.** Except as otherwise provided in this ordinance and except insofar as they are inconsistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, all of the provisions of Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code are adopted and made a part of this Chapter as though fully set forth.

3.30.120. **LIMITATIONS ON ADOPTION OF STATE LAW AND COLLECTION OF USE TAXES.** In adopting the provisions of Part 1 of Division 2 of the Revenue and Taxation Code:

A. Wherever the State of California is named or referred to as the taxing agency, the name of this City will be substituted. However, the substitution is not made when:

1. The word "State" is used as a part of the title of the State Controller, State Treasurer, State Board of Control, State Board of Equalization, State Treasury, or the Constitution of the State of California;
2. The result of that substitution would require action to be taken by or against this City or any agency, officer, or employee thereof rather than by or against the State Board of Equalization, in performing the functions incident to the administration or operation of this Chapter.
3. In those sections, including, but not necessarily limited to sections referring to the exterior boundaries of the State of California, where the result of the substitution would be to:
 - a. Provide an exemption from this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not otherwise be exempt from this tax while such sales, storage, use or other consumption remain subject to tax by the State under the provisions of Part 1 of Division 2 of the Revenue and Taxation Code, or
 - b. Impose this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not be subject to tax by the state under the said provision of that code.
4. In Sections 6701, 6702 (except in the last sentence thereof), 6711, 6715, 6737, 6797 or 6828 of the Revenue and Taxation Code.

B. The word "City" is substituted for the word "State" in the phrase "retailer engaged in business in this State" in Section 6203 and in the definition of that phrase in Section 6203 of the Revenue and Taxation Code.

3.30.130. **PERMIT NOT REQUIRED.** If a seller's permit has been issued to a retailer under Revenue and Taxation Code § 6067, an additional transactor's permit is not required by this Chapter.

3.30.140. **EXEMPTIONS AND EXCLUSIONS.**

A. There is excluded from the measure of the transactions tax and the use tax the amount of any sales tax or use tax imposed by the State of

California or by any city, city and county, or county pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law or the amount of any state-administered transactions or use tax.

B. There are exempted from the computation of the amount of transactions tax the gross receipts from:

1. Sales of tangible personal property, other than fuel or petroleum products, to operators of aircraft to be used or consumed principally outside the county in which the sale is made and directly and exclusively in the use of such aircraft as common carriers of persons or property under the authority of the laws of this State, the United States, or any foreign government.
2. Sales of property to be used outside the City which is shipped to a point outside the City, pursuant to the contract of sale, by delivery to such point by the retailer or his agent, or by delivery by the retailer to a carrier for shipment to a consignee at such point. For the purposes of this paragraph, delivery to a point outside the City is satisfied:
 - a. With respect to vehicles (other than commercial vehicles) subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, and undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code by registration to an out-of-City address and by a declaration under penalty of perjury, signed by the buyer, stating that such address is, in fact, his or her principal place of residence; and
 - b. With respect to commercial vehicles, by registration to a place of business out-of-City and declaration under penalty of perjury, signed by the buyer, that the vehicle will be operated from that address.
3. The sale of tangible personal property if the seller is obligated to furnish the property for a fixed price pursuant to a contract entered into before the operative date of this ordinance.
4. A lease of tangible personal property which is a continuing sale of such property, for any period of time for which the lessor is obligated to lease the property for an amount fixed by the lease before the operative date of this ordinance.
5. For the purposes of subparagraphs (3) and (4) of this section, the

sale or lease of tangible personal property is deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

- C. There are exempted from the use tax imposed by this Chapter, the storage, use or other consumption in this City of tangible personal property:
1. The gross receipts from the sale of which have been subject to a transactions tax under any state-administered transactions and use tax ordinance.
 2. Other than fuel or petroleum products purchased by operators of aircraft and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this State, the United States, or any foreign government. This exemption is in addition to the exemptions provided in Sections 6366 and 6366.1 of the Revenue and Taxation Code of the State of California.
 3. If the purchaser is obligated to purchase the property for a fixed price pursuant to a contract entered into before the operative date of this ordinance.
 4. If the possession of, or the exercise of any right or power over, the tangible personal property arises under a lease which is a continuing purchase of such property for any period of time for which the lessee is obligated to lease the property for an amount fixed by a lease before the operative date of this ordinance.
 5. For the purposes of subparagraphs (3) and (4) of this section, storage, use, or other consumption, or possession of, or exercise of any right or power over, tangible personal property is deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.
 6. Except as provided in subparagraph (7), a retailer engaged in business in the City is not required to collect use tax from the purchaser of tangible personal property, unless the retailer ships or delivers the property into the City or participates within the City in

making the sale of the property, including, without limitation, soliciting or receiving the order, either directly or indirectly, at a place of business of the retailer in the City or through any representative, agent, canvasser, solicitor, subsidiary, or person in the City under the authority of the retailer.

7. "A retailer engaged in business in the City" also includes any retailer of any of the following: vehicles subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, or undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code. That retailer is required to collect use tax from any purchaser who registers or licenses the vehicle, vessel, or aircraft at an address in the City.

- D. Any person subject to use tax under this Chapter may credit against that tax any transactions tax or reimbursement for transactions tax paid to a district imposing, or retailer liable for a transactions tax pursuant to Part 1.6 of Division 2 of the Revenue and Taxation Code with respect to the sale to the person of the property the storage, use or other consumption of which is subject to the use tax.

3.30.150. **AMENDMENTS.** All amendments subsequent to the effective date of this Chapter to Part 1 of Division 2 of the Revenue and Taxation Code relating to sales and use taxes and which are not inconsistent with Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, and all amendments to Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, automatically become a part of this Chapter, provided however, that no such amendment operates so as to affect the rate of tax imposed by this ordinance.

3.30.160. **ENJOINING COLLECTION FORBIDDEN.** No injunction or writ of mandate or other legal or equitable process may issue in any suit, action or proceeding in any court against the State or the City, or against any officer of the State or the City, to prevent or enjoin the collection under this ordinance, or Part 1.6 of Division 2 of the Revenue and Taxation Code, of any tax or any amount of tax required to be collected.

3.30.170. **SUSPENSION OR REDUCTION.** Nothing in this Chapter requires the City Council to collect a tax; the city council may suspend or reduce tax rates imposed by this chapter by resolution after a public hearing.

3.30.180. **CITY COUNCIL AUTHORITY TO AMEND.** Except for amendments that would increase the tax rate, impose the tax on transactions and uses not previously subject to the tax, or be inconsistent with the purposes of this chapter, the City Council may exercise all applicable powers set forth in the Government Code including, without limitation, amending this chapter by ordinance following a public hearing upon four

affirmative votes by its members. It may, in addition, adopt by ordinance or resolution such additional regulations that may be necessary to implement the purposes of this chapter.

3.30.190. **SUNSET CLAUSE.**

This chapter is repealed and will become ineffective on July 1, 2028, unless the voters take additional action to extend the effectiveness of this chapter in accordance with applicable law.”

SECTION 2: *Environmental Analysis.* This Proposition is exempt from review under the California Environmental Quality Act (California Public Resources Code §§ 2100, et seq., “CEQA”) and CEQA regulations (14 California Code of Regulations §§ 15000, et seq.) because it establishes rules and procedures to implement government funding mechanisms; does not involve any commitment to a specific project which could result in a potentially significant physical impact on the environment; and constitutes an organizational or administrative activity that will not result in direct or indirect physical changes in the environment. Accordingly, this Proposition does not constitute a “project” that requires environmental review (see specifically 14 CCR § 15378(b)(4-5)).

SECTION 3: *Continuity.* Repeal of any provision of the Monterey Park Municipal Code does not affect any penalty, forfeiture, or liability incurred before, or preclude prosecution and imposition of penalties for any violation occurring before this Ordinance’s effective date. Any such repealed part will remain in full force and effect for sustaining action or prosecuting violations occurring before the effective date of this Ordinance.

SECTION 4: *Severability.* If any part of this Ordinance or its application is deemed invalid by a court of competent jurisdiction, the city council intends that such invalidity will not affect the effectiveness of the remaining provisions or applications and, to this end, the provisions of this Ordinance are severable.

SECTION 5: *Validity of Previous Code Sections.* If this the entire Ordinance or its application is deemed invalid by a court of competent jurisdiction, any repeal of the MPMC or other regulation by this Ordinance will be rendered void and cause such MPMC provision or other regulation to remain in full force and effect for all purposes.

SECTION 6: *Voter Approval.* This Proposition will enact and impose a general tax. Accordingly, it will be submitted to a general election on November 6, 2018 for voter approval. If **TWO-THIRDS** of voters vote in favor of this Proposition, it will become valid and binding on the date that the City Council certifies the election results. Should the provisions of Government Code §§ 53720 *et seq.* or California Constitution Article XIII C be repealed or amended, or interpreted by the courts so that voter approval is not required for enacting this Ordinance, then this Ordinance will take effect as provided for all other City ordinances and may be amended in the same manner as all other City ordinances.

SECTION 7: Miscellaneous.

- A. This Proposition must be interpreted so as to be consistent with all federal and state laws, rules, and regulations. If any section, sub-section, sentence, clause, phrase, part, or portion of this Proposition is held to be invalid or unconstitutional by a final judgment of a court of competent jurisdiction, such decision does not affect the validity of the remaining portions of this Proposition. The voters declare that this Proposition, and each section, sub-section, sentence, clause, phrase, part, or portion thereof, would have been adopted or passed irrespective of the fact that any one or more sections, sub-sections, sentences, clauses, phrases, part, or portion is found to be invalid. If any provision of this Proposition is held invalid as applied to any person or circumstance, such invalidity does not affect any application of this Proposition that can be given effect without the invalid application.
- B. If any portion of this Proposition is held by a court of competent jurisdiction to be invalid, we the People indicate our strong desire that: (i) the City Council use its best efforts to sustain and reenact that portion, and (ii) the City Council implement this Proposition by taking all steps possible to cure any inadequacies or deficiencies identified by the court in a manner consistent with the express and implied intent of this Proposition, and then adopting or reenacting such portion as necessary or desirable to permit the planning and development of the Project.
- C. This Proposition must be broadly construed in order to achieve the purposes stated in this Proposition. It is the intent of the voters that the provisions of this Proposition be interpreted or implemented by the City and others in a manner that facilitates the purposes set forth in this Proposition.

SECTION 8: The Mayor will sign this Ordinance and the City Clerk will attest and certify to the passage and adoption of this Ordinance if two-thirds of the voters voting in the City's general election on November 6, 2018 approve the proposition asking whether the voters approve this Ordinance.

SECTION 9: Pursuant to Revenue and Taxation Code § 7265, this Ordinance will become operative on the first day of the first calendar quarter commencing more than 110 days after the adoption of this Ordinance.

PASSED AND ADOPTED this ____ day of _____, 2018.

Stephen Lam, Mayor

ATTEST:

Vincent D. Chang, City Clerk

APPROVED AS TO FORM:
MARK D. HENSLEY, City Attorney

By: 

Karl H. Berger, Assistant City Attorney

ATTACHMENT 3

Draft Resolution placing proposition on the November 6, 2018 ballot

CITY OF MONTEREY PARK

RESOLUTION NO. XX

A RESOLUTION ADDING A PROPOSITION TO THE BALLOT FOR THE PREVIOUSLY CALLED NOVEMBER 6, 2018, REGULAR MUNICIPAL ELECTION PURSUANT TO ELECTIONS CODE § 9222

THE CITY COUNCIL RESOLVES AS FOLLOWS:

SECTION 1. Pursuant to Elections Code § 9222, the City Council places a proposition on the ballot for the regular municipal election scheduled for Tuesday, November 6, 2018, as previously established and implemented by City Council Resolution No. XX adopted on July 18, 2018.

SECTION 2. A copy of the proposition to be considered by the voters is attached as Exhibit "A," and incorporated by reference.

SECTION 3. Pursuant to Elections Code §§ 9222 and 13119, the exact form of the question to be voted on at the election as it should appear on the ballot is as follows:

SPECIAL TAX	
Shall the proposition imposing a special three-quarter cent transactions and use tax (sales tax) raising approximately \$4,000,000 each year to fund goods, materials and equipment for specific public infrastructure projects and improvements (such as repairing, maintaining and replacing streets and sidewalks, park and recreation facilities, and public meeting rooms) and for information technology projects (no funds shall be used for consultant fees, professional or non-professional services, or employee salaries, retirement costs or benefits) be adopted?	YES
	NO

SECTION 4. The City Clerk must certify to the passage and adoption of this Resolution; enter the same in the book of original Resolutions; and make a minute of the passage and adoption thereof in the records of the proceedings of the City Council in the minutes of the meeting at which the same is passed and adopted.

SECTION 5. The Mayor, or presiding officer, is hereby authorized to affix a signature to this Resolution signifying its adoption by the City Council of the City of Monterey Park, and the City Clerk, or her duly appointed deputy, is directed to attest thereto.

SECTION 6. This Resolution will become effective immediately upon adoption.

**PASSED, APPROVED, AND ADOPTED BY THE CITY COUNCIL OF THE CITY
OF MONTEREY PARK ON THIS ____ DAY OF _____, 2018.**

Stephen Lam, Mayor

Attest:

Vincent D. Chang, City Clerk

**APPROVED AS TO FORM:
MARK D. HENSLEY, City Attorney**



Karl H. Berger, Assistant City Attorney

Attachment:

Exhibit A – Full Text of the Ballot Measure

ATTACHMENT 4

Draft Resolution requesting an impartial analysis

CITY OF MONTEREY PARK

RESOLUTION NO. xx

A RESOLUTION DIRECTING THE CITY ATTORNEY TO PREPARE AN IMPARTIAL ANALYSIS OF THE PROPOSITION AUTHORIZING IMPOSITION OF A SPECIAL THREE-QUARTER CENT TRANSACTIONS AND USE TAX (SALES TAX) TO FUND PUBLIC INFRASTRUCTURE AND INFORMATION TECHNOLOGY PROJECTS TO BE ADMINISTERED BY THE STATE BOARD OF EQUALIZATION.

THE CITY COUNCIL RESOLVES AS FOLLOWS:

SECTION 1. Pursuant to Elections Code § 9280, the City Clerk is directed to transmit a copy of the ballot proposition imposing a special three-quarter cent transactions and use tax (sales tax) to fund Public Infrastructure and Information Technology Projects to the City Attorney for an impartial analysis.

SECTION 2. Upon receiving the ballot measure, the City Attorney is directed to prepare an impartial analysis of the proposed ballot measure showing its effect, if any, on existing law and the operation of the measure. Such analysis must not be more than 500 words.

SECTION 3. The impartial analysis must include a statement indicating whether the proposed measure was placed on the ballot by a petition signed by the requisite number of voters or by the governing body of the City.

SECTION 4. In the event the entire text of the measure is not printed on the ballot, nor in the voter information portion of the sample ballot, there must be printed immediately below the impartial analysis, in not less than 10 point bold type, the City Clerk should have the following language printed: "The above statement is an impartial analysis of the proposed ballot measure (Resolution Nos. xx). If you desire a copy of the legislation affected by this measure, please call the City Clerk's office at (xxx) xxx, and a copy will be mailed at no cost to you."

SECTION 5. The impartial analysis of the proposed ballot measure must be filed by the date set by the City Clerk for the filing of primary arguments.

SECTION 6. Pursuant to 52 U.S.C.A. § 10503, the City Clerk will:

- A. Translate the City Attorney's analysis in accordance with regulations set forth by the Los Angeles County Registrar Recorder's office; and
- B. Make copies of the translations of the City Attorney's analysis publicly available.

SECTION 7. The City Clerk will certify to the passage and adoption of this Resolution; enter the same in the book of original Resolutions; and make a minute of the passage and adoption thereof in the records of the proceedings of the City Council in the minutes of the meeting at which the same is passed and adopted.

SECTION 8. The Mayor, or presiding officer, is authorized to affix his signature to this Resolution signifying its adoption by the City Council of the City of Monterey Park, and the City Clerk, or her duly appointed deputy, is directed to attest thereto.

SECTION 9. This Resolution will become effective immediately upon adoption.

PASSED, APPROVED, AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF MONTEREY PARK ON THIS 18th DAY OF JULY, 2018.

Stephen Lam, Mayor

Attest:

Vincent D. Chang, City Clerk

APPROVED AS TO FORM:



Karl H. Berger, Assistant City Attorney